FARAD CONTINUATION SHEET NO.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE
NAGPUR BENCH, NAGPUR

Second Appeal No. 9/2006
and
Second Appeal No. 10/2006

Appeal Application No. Writ petition	District : of 200

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders.	Court's or Judge's orders

Mr. M.R. Pillai, Advocate, for appellants.
Mr. G.R. Agrawal, Advocate for R-Sole.

CORAM : Smt. V. A. Naik, J.
DATED : April 17, 2007.

Since the facts involved in these two second appeals are common, both the second appeals are being disposed of by this common order.

The respondent in both these second appeals had filed regular civil suits against the appellants herein, for recovery of arrears of salary as also mandatory injunction seeking a direction to the defendants/appellants to pay the salary as per the scale prescribed by the State of Maharashtra. According to the plaintiffs, service conditions of the Teachers in the School run by the appellants, were framed and approved by the Central Board of Secondary Education. In view of the bye-laws, the defendant-School was liable to pay the

salaries to the staff as per the scales prescribed by the Government of Maharashtra. It was the case of the plaintiffs that there was a huge difference in the salary paid by the defendant-School and the salary paid to the employees of the State Government.

The defendants denied the claim of the plaintiffs and pleaded that the plaintiffs were not entitled to any amount of difference of pay as mentioned in the plaint. As per the defendants, the School was paying the salary according to the pay scale approved by the Government of Maharashtra and the pay scale was equal to the pay scale prescribed by the State of Maharashtra.

The trial Court framed the necessary issues and held that the plaintiffs proved that they were entitled to the pay scales as mentioned in the plaint. The Court further held that the plaintiffs were entitled to recover the amount of Rs. 91,354.25 and Rs. 61,000/- towards the arrears of difference of salary within a period of two months from the date of the decree and directed the defendants to pay the arrears of salary as determined by the trial Court.

The defendants preferred regular

civil appeals against the judgment and decree passed by the trial Court in two civil suits. The appellate Court, however, confirmed the findings recorded by the trial Court. The appellate Court held that the plaintiffs were entitled to the salary as per the scale of Teachers of State and Central Governments. The appellate Court held that on a plain reading of the bye-laws, it was clear that the Teachers of the C.B.S.E. affiliated schools must get salary and admissible allowance which is not less than the corresponding categories of employees in the State Government School. The appellate Court considered Rule 4 (7) (i) of the bye-laws to hold that the Teachers in C.B.S.E. affiliated schools were entitled to get salary at par with the corresponding category of Teachers in the State Government Schools. The appellate Court held that once the educational institutions get affiliation from the C.B.S.E., its management is bound to fulfill all the conditions of affiliation of C.B.S.E. and, therefore, the management is liable to pay the salaries to the Teachers at par with the scale payable to the Teachers in the State Government Schools. The appellate Court further considered the admission of the

witness examined on behalf of the appellants, which showed that the plaintiffs were getting salary less than the salary paid to the Teachers who are affiliated to the State Board. The submissions made on behalf of the appellants that the appellant-institution was not in a position to pay the salary as claimed by the plaintiffs and, therefore, the suit should not be decreed, was also rejected by the trial and the appellate Court.

The findings recorded by both the Courts are pure findings of facts which do not give rise to any substantial question of law. Second appeals are, therefore, dismissed with no order as to costs.

JUDGE

RMP